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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Written statement submitted by Centre Europe-Tiers Monde, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[4 March 1997]

Embargoes destroying men, debasing the law

1. "Men kill to conquer, but no man is so savage as to conquer in order to kill", said Rousseau. Will Rousseau, who described himself as a citizen of Geneva, find an audience here in that same city, where the United Nations has been pleased to turn its ear to human rights? While we must still put our trust in mankind, we may wonder whether we can still put our trust in States whose only purpose in seeking power and victory may be to annihilate men and cultures. Such is the case of the embargoes, decreed in the name of the law, whose disgraceful consequence is to bring down suffering on the peoples of Cuba, Iraq and Libya.

2. What jurist dare claim that the steps taken against these peoples make sense in international law? Who, though he hold his private interests more sacred than others' lives, would publicly dare to admit it? What State with any pride at all in its democratic history would dare claim to exemplify

democratic principles by playing executioner to another people? There is, we hope, no such jurist, there is, we are sure, no such person, but unfortunately there are States which, in order to demonstrate their might - as if it were necessary - make use of a supposedly universal law to justify sheer blind force. In seeking to shape others' history, States overlook or disregard their own peoples' finest historic deeds. The Centre Europe-Tiers Monde (CETIM) is both indignant at the suffering of the victims and appalled at the uses to which the history of the States that now claim to be arbiters of justice is put.

I. Embargoes deny the histories of democratic peoples

3. Let those States tell us: where in their own experience, history and law are the events and texts they use to justify such sanctions? What writings are there in the United States, France, the United Kingdom, Switzerland or any other self-proclaimed democratic State that make out embargoes to be morally acceptable under their domestic legal orders? What noble events in their own histories, in any way resemble embargoes? In times of conflict does the end justify the means? Obviously not, but the nature of the means sheds light on the nature of the ends, and casts doubt on the value States still attach to texts which are their historical and political pride. Do people not see - have they lost sight of the fact - that to use brute force thus is to deny both law and the history of law?

4. The practical application of international law seems to be a means for States to erase the writings on democracy whose spirit they are supposed to uphold. By inflicting punishment on peoples, States put their honour in jeopardy, though their founding texts may rank honour as their most precious possession; they deny that all men are equal and equally entitled to life, liberty and the pursuit of happiness, though their supposedly sacred texts may proclaim those same rights to be God-given and inalienable. Embargoes desecrate the sacred character of law and destroy its normative value.

II. Embargoes debase the law

A. The law used as a bludgeon

5. The States singled out are those distinguished by ideological "intractability" and sturdy national independence, which is why the embargoes outlive any problems the States may have created under international law. Cuba, Iraq and Libya, however diverse and dissimilar they may be, possess, in the eyes of the great Powers, an unfortunate feature in common: they do not allow policy to be dictated to them. So their peoples are being targeted as a means of blackmailing them back into line - i.e. into silence. The voice of these wounded and humiliated peoples must be heard and their message passed on, for it would be tellingly inconsistent to plead one moment for humanitarianism, and the next, for its opposite: barbarity. True, Kurds may be called resistance fighters in one place and terrorists in another. Besides denying the Kurdish people an identity, this exemplifies the denial of any possibility of a legal norm.

6. If we look at the issue from the angle not of what is done but of what is not, can one imagine an embargo against Israel to make it comply with a resolution such as the one blocked only recently by the United States although it commanded almost unanimous support? Of course not! Yet such a move could have been presented as perfectly consistent with the right to impose sanctions.

7. Who is the subject at law? With what is the law concerned? With the State, or with the people? Or with either, depending on the case to be made? More seriously, where is justice?

Will we find it in the way matters involving Libya have been dealt with? Hardly, when one considers that although Libya is showing signs of goodwill, and although the International Court in the Hague is capable of ensuring due process of law, the State is humiliated, the Court disparaged, and justice delayed. It is as if the only acceptable form of justice required neither texts nor precedents, neither judges nor courts.

Will we find it in the case of Iraq? One might again wonder. The extension of the embargo looks more and more like an attempt to place Iraq before an unacceptable dilemma, offering it the choice between capitulation and apocalypse.

Will we find it in Cuba, where it is only too clear that the aim is to humiliate?

8. Is it the purpose of such lawless justice to make all peoples and civilizations see economic reason and become correspondingly uncultivated? This would be unacceptable to both intelligence and law, for it would turn legal norms into mere trappings, to be invoked at whim as allegories.

9. The embargo is a pseudo-juridical concept and deserves a place only in popular texts as a tool for bringing about a change of Government. That people should write such stuff is one thing, but there is an alternative to popularization - to the temptation to popularize the law: the elementary and noble concept of justice, such as General Assembly resolution 1514 (XV) of 14 December 1960 brings to mind.

B. A perilous, anti-legal undertaking apt to inspire hatred

10. It is hardly surprising that such disastrous practices - disastrous in several respects: the human, the cultural, the legal and the political - bring international law into disrepute. Any law which persistently inflicts suffering on individuals and peoples must perforce engender hatred of those who invoke it, and contempt of its provisions.

11. Such an outcome, which now exists, may be lasting and serious. Lumping international law together with the great Powers that treat it as if it were theirs, the humiliated and mutilated of this world, realizing that the result

of impoverishing them and making them wretched is to deprive them of any real sovereignty, may well - and understandably - send the Western States packing, and their peoples with them. In favouring the contemptible legal device of the embargo, States stir up hatred of their own peoples all around them.

12. The greatest risk in persisting with such ill-considered policies, contrary to the most elementary rules of humanity and to all that holds intelligence and the spirit dear, is that, despite the avowed intent, the advent of human rights under non-western skies may be indefinitely postponed.

13. Although one may hope that the peoples who have suffered under the embargoes will be wise enough not to lump the peoples of the West, whose very history embargoes set at nought, together with their Governments, it is both necessary and urgent for the international community to resist this product of hatred, for it could also do lasting damage to the foundations of the international community itself were it to be ranked as an accessory to this repudiation of the law.